IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUIT NO.2658 OF 1996

Dena Bank ..Plaintiff.

Vs.

Kacharu Janu Kene & Ors. ..Defendants.

....

Mr. K.D. Shukla for the Plaintiff.
None for the Defendants.

....

CORAM: **DR. D.Y. CHANDRACHUD, J.**

20th July, 2007.

P.C. :

1. The Suit has been listed on Board as an undefended suit since neither of the Defendants has filed his written statement. The suit is for the recovery of an amount of Rs.3,30,419/- together with future interest on account of monies lent and advanced. No written statement has been filed despite service of the writ of summons. An affidavit of service dated 22nd October, 2002 has been filed.

2. The Plaintiff had sanctioned a Cash Credit Facility in the

nature of a term loan in the amount of Rs.2,23,000/- and a Cash Credit Hypothecation facility in the amount of Rs.75,000/- in 1993 to the proprietary concern of the First Defendant. The First Defendant had executed documents including demand promissory notes, deeds of hypothecation, a letter of continuity and a general letter of lien. The Second to Fourth Defendants executed a letter of guarantee on 3rd June, 1993. There was a default in the repayment of the outstandings upon which the Plaintiff addressed a letter of demand dated 23rd August, 1995 through their advocates. On the date of the institution of the suit an amount of Rs.3,30,419/- was due and payable. Interest has been claimed at the rate of 19.75% per annum from the date of the suit until payment.

3. The Plaintiffs have filed an affidavit in lieu of Examination-in-chief of the Branch Manager Pramod Atmaram Redij and a compilation of documents. The claim in the suit has been duly proved on the basis thereof. The First Defendant has enjoyed credit facilities under which amounts have been duly sanctioned and disbursed. There is a default in the payment of the

outstandings. Defendants 2 to 4 had executed a letter of guarantee on 3rd June, 1993. The Suit was instituted on 13th March, 1996 within limitation. None of the Defendants has entered appearance to file defence on merits. The Suit shall accordingly stand decreed in terms of prayer clause (a) with the modification that the Plaintiff would be entitled to interest at the rate of 12% per annum on the principal sum from the date of the suit until payment or realization. The Plaintiffs will be entitled to the costs of the Suit.